

**Notice of Allowability**

Application No.

10/054,425

Examiner

Peter P. Nerbun

Applicant(s)

MAGEE ET AL.

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment filed 27 July 2004.
2. ☒ The allowed claim(s) is/are 1-41, 43-80, 82 and 84-86.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☒ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |  |   |
|--|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)           |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____ |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>07272004</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                   |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                               | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance  |
|  | 9. <input type="checkbox"/> Other _____   |

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The drawings filed July 27, 2004 are objected to pursuant to 37 CFR 1.84(m). Solid black shading areas are not permitted, except when used to represent bar graphs or color. The drawings are further objected to pursuant to 37 CFR 1.84(l). Some of the letters in the drawing figures are not well-defined because they are partially obscured by extraneous black ink marks. Applicant is required to remove the solid black shading areas and the extraneous black ink marks to comply with 37 CFR 1.84(l) and 37 1.84(m).

In telephone conversations on December 21, 2004 and December 23, 2004 Mr. Fisher has agreed to the following amendment:

Claims 42 and 81 have been cancelled.

The cancellation of claim 42 was made because claim 42 recites a "product of the process of claim 38" however claim 38 is not a process claim but rather an apparatus claim reciting a system. Claim 81 was cancelled because the process steps recited in this product by process claim do not define a product having structure that patentably distinguishes over the prior art reference to Kent (U.S.P. 6,394,575).

The following is an examiner's statement of reasons for allowance:

Claim 1 and claims 2-32 and 35-37 which depend therefrom are allowable because the prior art does not teach or fairly suggest a process comprising the steps of

assembling on a computer terminal a desired subject image and any desired artistic enhancements into a digitally-defined target design and transmitting, using an electronic communications link, said digitally-defined target design to a remotely located patterning device comprising an array of liquid colorant applicators.

Claim 33 is allowed since claim 33 recites a product having a target design formed on the surface of a selected substrate in which individually addressable colorant applicators have dispensed on a pixel-by-pixel basis onto a specified area of said substrate surface, controlled quantities of liquid colorant, wherein the quantity of liquid colorant dispensed with a given pixel is sufficient to oversaturate said given pixel, wherein said oversaturation of said given pixel is the result of dispensing at least two different colorants in said given pixel. This process steps of this product by process claim does define a product having structure that patentably distinguishes over the prior art (viz. controlled quantities of liquid colorant dispensed on a substrate surface by individually addressable colorant applicators thereby forming a target design, wherein the quantity of liquid colorant dispensed with a given pixel is sufficient to oversaturate said given pixel, wherein said oversaturation of said given pixel is the result of dispensing at least two different colorants in said given pixel).

Claim 34 is allowed since 34 recites a product having a target design formed on the surface of a selected substrate in which individually addressable colorant applicators have dispensed on a pixel-by-pixel basis onto a specified area of said substrate surface, controlled quantities of liquid colorant, wherein the quantity of liquid colorant dispensed with a given pixel is sufficient to oversaturate said given pixel,

wherein said oversaturation of said given pixel is the result of dispensing at least two different colorants in said given pixel. This process steps of this product by process claim does define a product having structure that patentably distinguishes over the prior art (viz. controlled quantities of liquid colorant dispensed on a substrate surface by individually addressable colorant applicators thereby forming a target design, wherein the quantity of liquid colorant dispensed with a given pixel is sufficient to oversaturate said given pixel, wherein said oversaturation of said given pixel is the result of dispensing at least two different colorants in said given pixel).

Claim 38 and claims 39-41 and 43-59 which depend therefrom are allowable because the prior art does not teach or fairly suggest a system comprising a software interface for enabling remote access to an image manipulation design tool, by a user at a design terminal, over a public communications network, an access device by which a subject image may be functionally acquired by said image manipulation design tool, said tool enabling a user to customize said digitally defined subject image with the addition of artistic enhancements to form a digitally defined target design using a dithering palette of colors and a patterning device control system for transforming said dithered image into appropriate instructions for the actuation of colorant applicators.

Claim 60 and the claims which depend therefrom are allowable for the reasons given by the examiner in paper no. 01272004.

Claim 67 and the claims which depend therefrom are allowable for the reasons given by the examiner in paper no. 01272004.

Claim 71 and the claims which depend therefrom are allowable for the reasons given by the examiner in paper no. 01272004.

Claims 82 is allowable for the reasons given by the examiner in paper no. 01272004.

Claim 84 and the claims which depend therefrom are allowable because the prior art does not teach or fairly suggest a computer-readable data transmission medium containing a data structure comprising instructions for patterning a textile substrate by the selective application of a plurality of colorants to the surface of said substrate through a set of individually-addressable colorant applicators wherein said instructions are generated by utilizing an image manipulation design tool to modify, as desired, a final selection of a plurality of candidate artistic elements incorporated in a target design to form a custom target image. The method by which the instructions are generated affects the characteristics of the instructions because the image manipulation design tool modifies a final selection of a plurality of candidate artistic elements each of which is defined by a unique set of instructions.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter P. Nerbun whose telephone number is 571-272-4993. The examiner can normally be reached on M-F (1st Week) M-Th (2d Week).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571-272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Peter Nerbun  
December 23, 2004

  
Peter Nerbun  
Primary Examiner